

SENATE BILL REPORT

SB 5676

As Reported By Senate Committee On:
Law & Justice, February 27, 1995

Title: An act relating to restrictions on residential time for abusive parents.

Brief Description: Restricting residential time for abusive parents.

Sponsors: Senators Fraser and Kohl.

Brief History:

Committee Activity: Law & Justice: 2/20/95, 2/27/95 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5676 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; Hargrove, Haugen, Johnson, Long, McCaslin and Schow.

Staff: Lidia Mori (786-7755)

Background: If a parent has been convicted as an adult of a sexual offense or has been found to be a sexual predator, a court is required to restrain the parent from residential time or visitation with a child that would otherwise be allowed. If a parent resides with an adult who has been convicted, or a juvenile who was adjudicated, of a sexual offense or found to be a sexual predator, a court will require contact between the parent and the child to occur outside the presence of the convicted or adjudicated person.

Summary of Substitute Bill: A parent's residential time with a child is limited if the parent is convicted of rape of a child in the third degree, child molestation in the second or third degree, sexual misconduct with a minor in the first or second degree, or any crime dealing with sexual exploitation of children. If a parent lives with a person who is convicted or adjudicated of any of the above mentioned crimes, residential time or visitation must take place outside the presence of that person. A parent who is found to be a sexual predator is restrained from otherwise allowable residential time or visitation with a child.

There is a rebuttable presumption that a parent who is convicted of incest in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree or indecent liberties is restrained from otherwise allowable residential time or visitation with a child. If the child with whom the parent is seeking residential time or visitation is not sexually abused by the parent, the presumption may be rebutted by the court finding that contact between the child and the offending parent is appropriate and poses minimal risk to the child. In addition, the parent must successfully engage in or be making progress in treatment for sex offenders if it is ordered by a court. If the child with whom the parent is seeking residential time or visitation is sexually abused by the parent, the

presumption may be rebutted by the opinion of the child's counselor, if the child is or has been in therapy for victims of sexual abuse, that contact between the child and the offending parent is in the child's best interest. In addition, the parent must successfully engage in or be making progress in treatment for sex offenders if it is ordered by a court.

If the court finds that the presumption is rebutted, the court may order supervised residential time or supervised visitation. The supervisor must be a neutral and independent adult and there must be an adequate plan for supervision. In order for the court to approve the supervisor, it must find that he or she is willing and capable of protecting the child from harm.

A court may order unsupervised residential time or visitation if supervised residential time or visitation occurs for at least one year and the parent has no further arrests or convictions of sexual offenses against children. Unsupervised residential time or visitation may only take place if the offense of the parent is not committed against a child, step-child or adopted child of the parent. The court must make a finding that such unsupervised time is appropriate and poses minimal risk to the child, after consideration of testimony from a state-certified therapist, mental health counselor or social worker who supervised at least one period of residential time or visitation between the parent and the child. The court also is directed to consider whether the parent complied with probation requirements, if any. If the parent is not ordered by a court to attend treatment for sex offenders, then the evidence must include the results of a psycho-sexual evaluation.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill that passed last year which dealt with this same subject matter was too inclusive. This bill takes a more moderate approach to a serious issue.

Testimony Against: The substitute bill does not go far enough. Supervised visitation is like what a person gets in jail. It is not real visitation. Indecent liberties does not always involve children.

Testified: Senator Karen Fraser (pro); Debbie Ruggles, WA Coalition of Sexual Assault Programs (pro); Robert Taub, WA State Bar Assn. (con).